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EXAMINER
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GREY, CHRISTOPHER P

ART UNIT	PAPER NUMBER
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2474

NOTIFICATION DATE	DELIVERY MODE
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10/18/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

us.mail@smart-biggar.ca



Continuation of Disposition of Claims: Claims subject to restriction and/or election requirement are 1,2,4,5,11-13,15,16,18,19,24-27,46,47 and 49-52.

## DETAILED ACTION

### *Election/Restrictions*

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1, 2, 4, 5, 24-26, 46 and 47, drawn to a method of transmitting over 4 antennas where **pilots are inserted for the 4 antennas collectively in blocks of 2 subcarriers by 2 OFDM symbols scattered in time and frequency** classified in class 370, subclass 208.
  - II. Claims 11-13, 49 and 51 drawn to a method of transmitting over 4 antennas where a pair of pilots are inserted in a first pair of the four antennas and scattered in time and frequency, and another pair of pilots are inserted in a second pair of the four antennas and scattered in time and frequency in locations different from pilots for the first pair of antennas classified in class 370, subclass 276.
  - III. Claims 15, 16, 18, 19, 27, 50 and 52 drawn to a method of transmitting over 4 antennas where pilots are arranged in groups of 4 consecutive pilots in time, each group of four consecutive pilots containing pilots for the four antennas classified in class 370, subclass 500.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions of Group I, II and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one

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subcombination is separately usable. In the instant case, subcombination of Group I has separate utility such as providing a TDD scheme with transmission taking place in blocks of multiples of 2 OFDM symbols. See MPEP § 806.05(d).

The examiner has required restriction between subcombinations usable together. Where applicant elects a subcombination and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

3. Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above and there would be a serious search and/or examination burden if restriction were not required because at least the following reason(s) apply:

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification (i.e., it is noted that Group I-III are mutually exclusive from each other thus the search required for one group is not required for other groups), restriction for examination purposes as indicated is proper.

**Applicant is advised that the reply to this requirement to be complete must include (i) an election of a invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.**

The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable upon the elected invention.

Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

4. A telephone call was made to Allan Brett on October 4, 2010, to request an oral election to the above restriction requirement, but did not result in an election being made.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTOPHER P. GREY whose telephone number is (571)272-3160. The examiner can normally be reached on 10AM-7:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Moe Aung can be reached on (571)272-7314. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher P Grey/  
Examiner, Art Unit 2474